

July 27, 2020

By ECF

Hon. Lorna G. Schofield
United States District Judge
U.S. District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Natural Alternatives International, Inc. v. Bactolac Pharmaceutical, Inc., et al.*,
No. 1:19-cv-05354(LGS)

Dear Judge Schofield:

This joint letter is submitted by counsel for plaintiff, Natural Alternatives International, Inc. (“NAI”), and defendant, Bactolac Pharmaceutical, Inc. (“Bactolac”), to respond to the Court’s questions raised in Dkt. No. 93. The parties met and conferred on July 27, 2020.

As to discovery from Bactolac, it has responded to NAI’s interrogatories. As of July 27, 2020, Bactolac has produced approximately 5,249 pages in response to NAI’s discovery requests. These responses include correspondence, batch sheets, invoices and other financial documents, bills of lading, and certificates of analysis.

Documents remaining to be produced by Bactolac for the period 2014 to the present include emails, correspondence, batch records in hard copy, invoices and other financial documents, bills of lading, certificates of analysis, manufacturing records relating to Bactolac’s purchase, use in production of vitamin supplements for its customers, and sale of such finished products to its customers containing CarnoSyn® beta-alanine.

Bactolac’s ability to search for and produce responsive documents has been substantially hampered by restrictions imposed due to the coronavirus pandemic. In order to comply with social distancing requirements, sanitization protocols, and other measures designed to reduce the spread of the coronavirus, Bactolac has been operating with a significantly reduced staff at its facility. Many of Bactolac’s employees are working from home or working only a few days a week at the facility, which has hampered greatly Bactolac’s ability to cull relevant documents, especially the hard copy batch records, which are only located on-site.

Bactolac will continue to produce additional relevant responsive documents on a rolling basis. Bactolac agrees with NAI that the remainder of responsive documents will be produced by October 17, 2020.

Bactolac did not serve interrogatories on NAI. As of July 21, 2020, NAI has produced approximately 12,866 pages in response to Bactolac's discovery requests. These responses generally include information regarding NAI's CarnoSyn® beta-alanine business, financial documents, intellectual property rights, the dispute with Bactolac, prior litigation, licenses, Food and Drug Administration regulatory documents, and scientific studies.

NAI has also produced to Bactolac copies of documents it received in response to subpoenas served on non-party witnesses.

Documents remaining to be produced by NAI for the period April 2015 to the present include emails and hard drive documents for certain NAI employees or former employees; NAI's purchases/importation of CarnoSyn® beta-alanine; sales of CarnoSyn® beta-alanine by month and by customer; additional financial data; advertising and marketing, research and development, and legal expenditures for the CarnoSyn® beta-alanine business; and communications with actual or potential CarnoSyn® customers.

NAI's ability to search for and produce these documents has been hindered by the coronavirus pandemic. NAI was on lockdown and several employees have left the company or are working remotely. For example, one of NAI's officers needed to respond to several categories resides with a high-risk person and has been in self-quarantine. Social distancing requirements in California have limited the number of staff that can be present. NAI also has technical issues with a database containing responsive information that will render the data usable.

NAI will continue to produce additional relevant responsive documents on a rolling basis. NAI agrees with Bactolac that the remainder of responsive documents will be produced by October 17, 2020.

The parties anticipate deposing one or more corporate representatives of the other party. Subject to information gleaned from additional discovery, NAI currently anticipates deposing Bactolac officers or employees, including Pailla M. Reddy, Renee Reynolds, and Vijay Bhatt. NAI may also depose Matt Spolar (or a corporate representative of) Vitalize Labs, LLC and representatives of non-parties, including Acropolis Nutrition and Vascular Nutrition, Inc.

Also subject to further discovery information, Bactolac currently anticipates deposing one or more corporate officers and employees of NAI, including Kenneth Wolf, Michael Fortin. Bactolac also intends to depose third-parties Matt Spolar of Vitalize Labs, LLC, and representatives of Acropolis Nutrition and Vascular Nutrition, Inc.

The parties agree that depositions will be completed by December 2, 2020. They also agree that their preference is for depositions to take place in person. Witnesses and counsel are located in different states, New York, California, and the District of Columbia. Depending on the status of

the pandemic, remote depositions may be required. The parties respectfully request that they further meet and confer and set forth a schedule for depositions, in person or remotely, in their August 26, 2020 status letter to the Court.

Finally, the parties have filed an amended case management plan and scheduling order. Dkt. No. 94.

We again thank the Court for its attention and consideration.

Respectfully submitted,

/s/ Richard J. Oparil
Richard J. Oparil
Counsel for Plaintiff

/s/ Christopher A. Raimondi
Christopher A. Raimondi
Counsel for Defendant